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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

29 UNITED STATES OF AMERICA,) CASE NO. CR 15-00149 HSG
30 Plaintiff,)
31 v.) STIPULATED REQUEST AND ~~PROPOSED~~
32) ORDER TO EXCLUDE TIME UNDER THE
33) SPEEDY TRIAL ACT, 18 U.S.C. § 3161 ET SEQ.
34 HUGO JOHN SCHERZBERG,)
35 Defendant.)

36 Status hearings in the above-captioned matter were held on August 10 and 24, 2015. Due to
37 scheduling issues with his medical treatment and transportation issues, the defendant, who is in custody,
38 was not present for the hearings. A new status hearing was set for September 14, 2015.

39 For the reasons stated before the Court during the status hearing, and as set forth below, the
40 parties stipulated, and the Court found, that an exclusion of time was appropriate under the Speedy Trial
41 Act between August 10, 2015, and September 14, 2015. In support of this exclusion of time, the parties
42 hereby stipulate as follows:

43 1. Through no fault of the parties, the defendant was not present for the August 10
44 and 28, 2015, status hearings. He has not had an appearance before the assigned District Court
45 judge and his appearance is required and essential to have a meaningful status hearing.

2. On May 20, 2015, the government provided the defense approximately 126 pages of discovery and has made more discovery available for inspection by the defense.

3. Defense counsel requires additional time to review the discovery provided (and may seek opportunity to review other available discovery) and to conduct follow-up investigation and research.

4. Due to the defendant's medical treatment and place of custody, additional time is required for counsel to review this matter with the defendant and provide necessary legal advice. It is anticipated that the defendant's place of custody will be changed, thereby facilitating defense counsel's access to the defendant.

5. The defendant confirms that he has consulted with defense counsel and that
counsel had the power and authority on his behalf to waive his right to a Speedy Trial and to
¹ exclude time under the Speedy Trial Act as was done before the Court on August 10 and 24,
2015.

6. The Court appropriately found that the ends of justice served by continuing this matter to September 14, 2015, outweigh the best interests of the public and the defendant in a speedy and public trial because (a) failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice; and (b) failure to grant such a continuance would deny defense counsel reasonable time for effective preparation, taking into account the exercise of due diligence.

WHEREFORE, the parties request that the Court exclude time from computation under the Speedy Trial Act, 18 U.S.C. §§ 3161(h) (7)(A), (B)(i), and (B)(iv), from August 10 through September 14, 2015.

Respectfully submitted,

BRIAN J. STRETCH
Acting United States Attorney

Date

ANDREW S. HUANG
Assistant United States Attorney

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3 Date
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HUGO JOHN SCHEERZBERG

Defendant

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6 Date
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JEROME MATTHEWS, Esq.
Assistant Federal Public Defender
Counsel to Defendant Scherzberg

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10 SO ORDERED.

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12 Date
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Hon. HAYWOOD S. GILLIAM, Jr.
United States District Judge